



DESERT TORTOISE COUNCIL

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Via email only

26 July 2021

California Department of Parks and Recreation
Off-Highway Motor Vehicle Recreation Division
Attn: Sixto Fernandez, Grants Manager
Grants and Cooperative Agreements
1725 23rd Street, Suite 200
Sacramento, California 95816-7100
Sent via email to: OHV.Grants@parks.ca.gov

Re: Proposed Amendments to California Code of Regulations, Title 14, Governing the Grants and Cooperative Agreements Program, and Changes to Information Requirements – Supplemental Information

Dear Mr. Fernandez:

The Desert Tortoise Council (Council) is a non-profit organization comprised of hundreds of professionals and laypersons who share a common concern for wild desert tortoises and a commitment to advancing the public's understanding of desert tortoise species. Established in 1975 to promote conservation of tortoises in the deserts of the southwestern United States and Mexico, the Council routinely provides information and other forms of assistance to individuals, organizations, and regulatory agencies on matters potentially affecting desert tortoises within their geographic ranges.

Although the Council and Defenders of Wildlife coauthored a comment letter on this issue and submitted it earlier today, one of our Board members had additional comments that are expressed in this second submittal, so please consider this comment letter as well as the earlier one. We would also like to note that the Desert Tortoise Preserve Committee has reviewed the earlier, combined Council/Defenders letter, and fully supports the contents of that letter.

The Council is very concerned about use of the word “guidelines,” when “recommendations” or “requirements” would be far more effective, especially for funding recipients such as the Bureau of Land Management (BLM). Based on years of experience, only *regulations* are effective. The word “guidelines” is weak, will be perceived as such and not taken seriously, resulting in a half-hearted attempt to conform to said guidelines.

We also submit the following specific comments:

Adopt 2.5.2.1.3 Watercourse Classification-Sensitive Aquatic Resources and Adopt 2.5.2.1.4 Analysis of Watercourse Crossings. This refers to the 2008 Guidelines but does not adequately address washes (ephemeral streambeds) of various types, nor use sufficient language for the California deserts. The technical terms are “primary” or “axial valley ephemeral stream channel,” “secondary stream channel,” “tertiary ephemeral stream channel,” “quaternary ephemeral stream channel,” etc. Axial valley ephemeral stream channels drain valleys and are fed by the secondary ephemeral stream channels, with the tertiary ephemeral stream channels feeding into the secondary channels and so on. Some of these relationships are shown on topographic maps, others are not, and accuracy is not always likely.

The integrity of all these ephemeral stream channels is especially important to wildlife because they support perennial vegetation in greater diversity, abundance, and size than found in open desert. As such, they are essential to the state- and federally-threatened desert tortoise and state-listed Mohave ground squirrel (*Xerospermophilus mohavensis*). The annual vegetation is often more diverse and provides better cover than upland areas. Thus, tortoises and Mohave ground squirrels use these areas as cover and for foraging (Jennings 1997, Logan 2016). Stream channels are also important to foraging and nesting birds.

Off-highway vehicle (OHV) users frequently use ephemeral stream channels, resulting in damage, degradation of the soil surface, loss of vegetation, and degradation of the habitat for threatened species. This topic requires greater descriptions and would benefit measurably from protection.

It is highly desirable to have requirements for the types of monitoring and reporting that would quantify degradation of soils and vegetation. We recommend a section on types of monitoring, as follows, that should be addressed through quantification, especially outside of BLM-designated vehicle Open Areas, where travel should be restricted:

1. Widening and splitting of trails to avoid ruts and what OHV riders call “whoop-de-dos” created by speed and jumping of motorcycles.
2. Unauthorized tracks and trails.
3. Unauthorized use of closed trails.
4. Fence cutting and cost of repairs of closed or otherwise protected areas or limited use areas.
5. New parking and camping areas and changes in sizes of existing camping areas.
6. Unauthorized expansion of open areas into limited use areas; creation of a network of trails, largely unauthorized.

2.7.1 Project Design Conservations

“...spread of invasive species should be minimally affected.” OHV use in the Western Mojave and Chuckwalla critical habitat units for the desert tortoise is contributing substantially to spread of a noxious invasive species, particularly Sahara or African Mustard, *Brassica tournefortii*, through use of BLM-designated closed washes. This is also evident in Jawbone Canyon, Dove Springs Canyon, and many other areas. Seeds are carried in the tires, passed from one area to another, contributing to competition with native vegetation and loss of native biomass of annuals and forage for wildlife. The literature on this is substantial and should not be ignored. Distribution and abundance of these and other invasive non-native weeds requires monitoring, including locations.

2.6.2 OHV Area Visitor Information

Use of the term, “volunteer trail.” While this may be an appropriate term for State and Federal recreation areas where unrestricted use is part of the design, it carries the implication that it is appropriate everywhere, even in limited use and closed or other protected areas. Except for BLM Open Areas or State Recreation Areas where vehicle use is unrestricted, such vehicle use outside those designated areas is unauthorized, causing serious degradation to habitat for wildlife.

Recommendation: Separate Volunteer Trails into the following categories: Approved and authorized versus unapproved and unauthorized or trespass, if on private land without express permission of the owner.

Track: Definition should be tracks left by a single two- or four-wheeled vehicle, outside of a designated BLM Open Area or State Recreation Area inside of which vehicle use is unrestricted. Unauthorized tracks are also degrading and damaging to state and federally listed species such as the desert tortoise and Mojave ground squirrel. They should not occur anywhere outside designated and permitted areas.

Recommendation: Define and use the term “track,” separating it into authorized and unauthorized.

Thank you for your considerations and continuing to inform the Council of this and other projects affecting desert tortoises and their habitats.

Regards,

Edward L. LaRue, Jr., M.S.
Desert Tortoise Council, Ecosystems Advisory Committee, Chairperson

Literature Cited

Jennings, W. B. 1997. Habitat use and food preferences of the desert tortoise, *Gopherus agassizii*, in the western Mojave Desert and impacts of off-road vehicles. Pages 42-45 in J. Van Abbema (Ed.), Proceedings: Conservation, Restoration, and Management of Tortoises and Turtles—An International Conference. New York Turtle and Tortoise Society and WCS Turtle Recovery Program, New York.

Logan, M. K. 2016. Assessing site occupancy of Mohave ground squirrels: implications for conservation. *Journal of Wildlife Management* 80:208-220.